

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 80

HOUSE BILL 2243

AN ACT

AMENDING SECTION 42-1004, ARIZONA REVISED STATUTES; RELATING TO THE
DEPARTMENT OF REVENUE.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1004, Arizona Revised Statutes, is amended to
3 read:

4 42-1004. General powers and duties of the department; res
5 judicata; remedies; enforcement; special collections
6 account

7 A. The department shall administer and enforce the provisions of this
8 title, title 43 and other laws assigned to it and has all the powers and
9 duties prescribed by law for such purposes. In all proceedings prescribed
10 by law the department may act on behalf of this state. In addition, the
11 department shall:

12 1. Formulate policies, plans and programs to effectuate the missions
13 and purposes of the department.

14 2. Employ and remove personnel subject to the provisions of title 41,
15 chapter 4, articles 5 and 6, determine the conditions of employment and
16 prescribe the duties and powers of administrative, professional, technical,
17 secretarial, clerical and other personnel as may be necessary in the
18 performance of its duties, and contract for the services of outside advisors,
19 consultants and aides as may be reasonably necessary.

20 3. Make contracts and incur obligations within the general scope of
21 its activities and operations subject to the availability of its funds.

22 4. Contract with or assist other departments, agencies or institutions
23 of the state, local, Indian tribal and federal governments in the furtherance
24 of its purposes, objectives and programs.

25 5. Accept grants, matching funds and direct payments from public or
26 private agencies for the conduct of programs which are consistent with the
27 overall purposes and objectives of the department.

28 6. Provide information and advice within the scope of its duties
29 subject to the laws on confidentiality of information and departmental rules
30 adopted pursuant to such laws.

31 7. Advise with and make recommendations to the governor and the
32 legislature on all matters concerning its objectives.

33 8. Have an official seal which shall be judicially noticed.

34 9. Provide an integrated, coordinated and uniform system of tax
35 administration and revenue collection for the state.

36 B. The department may:

37 1. With the approval of the attorney general:

38 (a) Abate any balance owed by a taxpayer if the balance is
39 uncollectible. Related liens, if any, are extinguished on abatement.

40 (b) Abate all or part of the unpaid portion of any tax if the director
41 determines that the administration and collection costs involved would exceed
42 the amount of the tax.

43 2. Offer publications relating to the administration of state taxes
44 for sale at a price equal to the pro rata cost of publication and

1 distribution. Monies received from the sale of publications shall be placed
2 in a revenue publications revolving fund. Monies in the fund:

3 (a) Shall be used to meet publication and distribution expenses.

4 (b) Are exempt from the provisions of section 35-190 relating to
5 lapsing of appropriations.

6 3. Enter into contingent fee contracts to collect delinquent state
7 taxes, penalties and interest due under title 43 and chapter 5, article 1 of
8 this title, consistent with the requirements of chapter 2, article 1 of this
9 title. No contract may be entered into for:

10 (a) The collection of delinquent state taxes which exceed five hundred
11 dollars for an individual resident, Arizona corporation or partnership.

12 (b) THE HIRING OF AUDITORS ON A CONTINGENT FEE BASIS EXCEPT AUDITORS
13 THAT ARE HIRED TO ENFORCE THE PROVISIONS OF TITLE 44, CHAPTER 3.

14 C. In the determination of any issue of law or fact under this title
15 or title 43, neither the department, nor any officer or agency having any
16 administrative duties under this title or title 43, nor any court is bound
17 by the determination of any other executive officer or administrative agency
18 of this state. In the determination of any case arising under this title or
19 title 43, the rule of res judicata is applicable only if the liability
20 involved is for the same year or period as was involved in another case
21 previously determined under this title or title 43.

22 D. The remedies of this state provided for in this title and title 43
23 are cumulative, and no action taken by the department constitutes an election
24 by this state to pursue any remedy to the exclusion of any other remedy
25 provided by law.

26 E. The attorney general shall prosecute in the name of this state all
27 actions necessary to enforce this title and title 43. The attorney general
28 may defend all actions brought against this state or an officer or agency of
29 this state arising under this title and title 43. The attorney general may
30 delegate the prosecuting authority to any county attorney for prosecution in
31 that county.

32 F. A special collections account is established in the state general
33 fund. All monies collected pursuant to contracts authorized by subsection
34 B, paragraph 3 of this section shall be deposited in the special collections
35 account. The department shall pay from the account all fees and court costs
36 provided for in the contracts authorized under subsection B, paragraph 3 of
37 this section. The department shall allocate the remainder of the amounts
38 collected under subsection B, paragraph 3 of this section to the state
39 or the political subdivision in the proportion that the monies would have
40 been distributed pursuant to chapter 5 of this title or section 43-206,
41 respectively.

APPROVED BY THE GOVERNOR APRIL 29, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2002.

Passed the House April 4, 2002,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate April 23, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24 day of April, 2002

at 11:01 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 29th day of

April, 2002

at 1:06 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of April, 2002,

at 11:50 o'clock A M.

[Signature]
Secretary of State

H.B. 2243